

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

SHERWOOD BROWN,)	
)	
Plaintiff,)	
)	
v.)	No. CIV-13-612-M
)	
OKLAHOMA SUPREME COURT,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

Plaintiff, appearing pro se, apparently seeks relief under 42 U.S.C. § 1983 complaining that he has not been permitted to represent his incarcerated, mentally incompetent, "god grandson." Chief United States District Judge Vicki Miles-LaGrange has referred the matter to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B). For the reasons set forth herein, the undersigned recommends that Plaintiff's motion to proceed *in forma pauperis*, **ECF NO. 2, be DENIED**, and that his action be dismissed without prejudice to refiling unless Plaintiff pays the full filing fee within twenty (20) days of any order adopting this Report and Recommendation. *See* Local Civil Rule 3.4(a). The application to proceed *in forma pauperis* lacks sufficient information regarding his financial resources and obligations; in fact, the information Plaintiff has provided supports an inference that he is able to pay the filing fee.

The undersigned finds that granting Plaintiff leave to cure the defects in his motion to appear *in forma pauperis* would be futile because Plaintiff is attempting to

appeal the Oklahoma Supreme Court's decision prohibiting him—a layman—from representing the rights of a third person, his "god grandson." Plaintiff does not appear to be seeking relief vindicating any of his own personal constitutional rights. Thus, even if the defects in the motion to appear *in forma pauperis* were cured, and it was shown that Plaintiff does not have adequate funds to pay the \$400.00 filing fee, this Court would not only lack jurisdiction over the Defendant but Plaintiff's action would be subject to dismissal because he cannot appear pro se in an attempt to represent the rights of another. Accordingly, Plaintiff should seriously consider further pursuit of his efforts to proceed in this action *in forma pauperis*.

Accordingly, it is hereby recommended that unless Plaintiff pays the entire \$400.00 filing fee within twenty (20) days of any order adopting this recommendation that this action be dismissed without prejudice. *See Lister v. Department of the Treasury*, 408 F.3d 1309, 1312 (10th Cir 2005).

RECOMMENDATION

Accordingly, it is recommended that Plaintiff's motion to appear *in forma pauperis*, **ECF No. 2 be DENIED**, and that this action be dismissed without prejudice to refiling unless Plaintiff pays the \$400.00 filing fee in full to the Clerk of Court within twenty (20) days of any order adopting this Report and Recommendation. Plaintiff is advised of his right to file an objection to this Report and Recommendation with the Clerk of this Court by **July 18, 2013**, in accordance with 28 U.S.C. § 636 and Fed. R. Civ. P. 72. Plaintiff is further advised that failure to make timely objection to this

Report and Recommendation waives his right to appellate review of both factual and legal issues contained herein. *Moore v. United States*, 950 F.2d 656 (10th Cir. 1991).

ENTERED on June 28, 2013.

A handwritten signature in dark ink, reading "Shon T. Erwin". The signature is written in a cursive, flowing style. The first name "Shon" is written with a large, looped 'S'. The middle initial "T." is written with a small 'T' followed by a period. The last name "Erwin" is written with a large 'E' and a trailing flourish.

SHON T. ERWIN
United States Magistrate Judge